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**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation & Petition to  
Revoke Probation Against:

MICHELLE ROHDECROUT  
P. O. Box 552  
Carmichael, CA 95609

Respiratory Care Practitioner License No. 1296

Respondent.

Case No. R-2084

**A C C U S A T I O N  
AND  
PETITION TO REVOKE  
PROBATION**

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about April 19, 1985, the Respiratory Care Board issued Respiratory Care Practitioner License Number 1296 to Michelle Rohdecroust (Respondent). The Respiratory Care Practitioner License expired on April 30, 2006, and has not been renewed.

3. Respondent acknowledges that she is also known as Michelle Rohdecroust, Michelle Rohde-croust, or Michelle Crout.

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1           9.       Section 3752 of the Code states:

2           “A plea or verdict of guilty or a conviction following a plea of nolo contendere  
3       made to a charge of any offense which substantially relates to the qualifications,  
4       functions, or duties of a respiratory care practitioner is deemed to be a conviction within  
5       the meaning of this article. The board shall order the license suspended or revoked, or  
6       may decline to issue a license, when the time for appeal has elapsed, or the judgment of  
7       conviction has been affirmed on appeal or when an order granting probation is made  
8       suspending the imposition of sentence, irrespective of a subsequent order under Section  
9       1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to  
10      enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
11      accusation, information, or indictment.”

12          10.      Section 3752.5 of the Code states:

13          “For purposes of Division 1.5 (commencing with Section 475), and this chapter  
14      [the Respiratory Care Practice Act], a crime involving bodily injury or attempted bodily  
15      injury shall be considered a crime substantially related to the qualifications, functions, or  
16      duties of a respiratory care practitioner.”

17          11.      Section 3755 of the Code states:

18          “The board may take action against any respiratory care practitioner who is  
19      charged with unprofessional conduct in administering, or attempting to administer, direct  
20      or indirect respiratory care. Unprofessional conduct includes, but is not limited to,  
21      repeated acts of clearly administering directly or indirectly inappropriate or unsafe  
22      respiratory care procedures, protocols, therapeutic regimens, or diagnostic testing or  
23      monitoring techniques, and violation of any provision of Section 3750. The board may  
24      determine unprofessional conduct involving any and all aspects of respiratory care  
25      performed by anyone licensed as a respiratory care practitioner.”

26          12.      California Code of Regulations, title 16, section 1399.370, states:

27          “For the purposes of denial, suspension, or revocation of a license, a crime or act  
28      shall be considered to be substantially related to the qualifications, functions or duties of

1 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to  
2 perform the functions authorized by his or her license or in a manner inconsistent with the  
3 public health, safety, or welfare. Such crimes or acts shall include but not be limited to  
4 those involving the following:

5 “(a) Violating or attempting to violate, directly or indirectly, or assisting or  
6 abetting the violation of or conspiring to violate any provision or term of the Act.”

#### 7 COST RECOVERY

8 13. Section 3753.5, subdivision (a) of the Code states:

9 "In any order issued in resolution of a disciplinary proceeding before the board,  
10 the board or the administrative law judge may direct any practitioner or applicant found to have  
11 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the  
12 investigation and prosecution of the case."

13 14. Section 3753.7 of the Code states:

14 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall  
15 include attorney general or other prosecuting attorney fees, expert witness fees, and other  
16 administrative, filing, and service fees."

17 15. Section 3753.1 of the Code states:

18 "(a) An administrative disciplinary decision imposing terms of probation may  
19 include, among other things, a requirement that the licensee-probationer pay the monetary costs  
20 associated with monitoring the probation. "

#### 21 FIRST CAUSE FOR DISCIPLINE

22 (Substantially related conviction)

23 16. Respondent is subject to disciplinary action under sections 3750(d), 3752  
24 and 3752.5 in that she was convicted of violating Penal Code sections 273(a), child cruelty and  
25 368(b)(1), a felony, harm/death: elderly dependent adult.

26 17. On or about July 27, 2006, respondent was arrested for violating Penal  
27 Code section 273(a), child cruelty and Penal Code section 422, threats to commit great bodily  
28 harm.

1           A.     On July 27, 2006, the Sacramento County Sheriff's Department  
2 investigated a report of child abuse. The investigating officer observed that respondent had a  
3 strong odor of alcohol about her person, and her speech was slurred. Respondent's son, age 7,  
4 reported that respondent had choked him, punched and bit him. She threatened him, "You will  
5 not make it out of this room alive."

6           B.     On July 31, 2006, a criminal complaint titled *People of the State of*  
7 *California vs. Michelle Rohdecroust*, case no. 06M07695 was filed in Superior Court, Sacramento  
8 County. Count 1 charged respondent with a violation of Penal Code section 273(a), child  
9 cruelty, a misdemeanor. Count 2 charged respondent with a violation of Penal Code section  
10 422, threats to commit great bodily harm.

11           18.    On or about April 2, 2007, respondent was arrested for violating Penal  
12 code section 368(b), elder abuse. Sacramento Sheriff's Department Investigating Officer D.  
13 Albee signed a probable cause for detention declaration in which he stated that he spoke with  
14 VICTIM E., age 77, who stated that she and her daughter (respondent) had been arguing because  
15 respondent was intoxicated and chasing her children around the yard with a stick. Respondent  
16 grabbed E.'s hair with both hands and threw her to the ground. VICTIM E. stated that she hit her  
17 head on the side of the kitchen stove when respondent threw her to the ground. Officer Albee  
18 observed that VICTIM E. had a hard, raised knot on the right side of her head about the size of an  
19 egg. Respondent admitted that she drank a bottle of wine that day, and Officer Albee observed  
20 that respondent had a strong odor of alcohol about her person.

21           A.     On April 4, 2007, a felony criminal complaint titled *People of the State of*  
22 *California vs. Michelle Rohdecroust*, case no. 07F03325 was filed in Superior Court, Sacramento  
23 County. Count 1 alleged a violation of Penal Code section 368(b), elder abuse.

24           B.     Respondent entered pleas of no contest to the felony elderly abuse charge  
25 and the misdemeanor child cruelty charge. She was referred to probation for a report and  
26 sentencing recommendation.

27           19.    On or about April 18, 2007, Jose R. Guerrero, Deputy Attorney General,  
28 filed a Penal Code section 23 motion recommending that the Court order respondent not to

1 practice respiratory care or alternatively, not to treat juvenile or elderly patients during her release  
2 while awaiting trial. The motion was continued to May 16, 2007, the sentencing date.

3           20. On or about May 16, 2007, respondent was convicted on her nolo  
4 contendere plea to elder abuse, a violation of Penal Code section 368(b)(1), a felony and she was  
5 convicted on her nolo contendere plea to child cruelty, a violation of Penal Code section 273(a),  
6 a misdemeanor. She was ordered to serve 240 days in Sacramento County Jail with credit for  
7 time served of 45 days, her respiratory care license was restricted for two years. She was ordered  
8 to submit blood and saliva samples and fingerprints pursuant to Penal Code section 296.1; to  
9 participate in an alcohol rehabilitation program under direction of the probation officer to include  
10 chemical testing; abstain from consumption of alcohol; not to commit violence or threaten to  
11 commit violence against the victim named in the complaint; pay \$400.00 restitution fine; pay  
12 additional restitution which is stayed and effective upon revocation of probation; submit to a  
13 financial evaluation for ability to pay costs of \$702.00 for the presentence report and \$46.00 per  
14 month for probation supervision. She was ordered to comply with general probation terms and  
15 pay various fees.

16           21. Therefore, respondent's license is subject to discipline based on two  
17 convictions: a felony conviction of violating Penal Code section 368(b)(1), elder abuse and a  
18 misdemeanor conviction of violating Penal Code section 273(a) child cruelty.

19                           SECOND CAUSE FOR REVOCATION OF PROBATION

20   (Biological fluid testing)

21           22. Paragraphs 16 through 20 are incorporated herein.

22           23. Respondent's probation is subject to revocation because she has failed to  
23 comply with Condition 2 of the Order in Case No. R- 2023, which states that she shall participate  
24 in random testing. "Failure to submit to testing or appear as requested by any Board  
25 representative for testing, as directed shall constitute a violation of probation..."

26           24. On August 21, 2006, respondent met with her probation monitor and  
27 signed a Statement of Understanding regarding the Board's probation monitoring program  
28 administered by Compass Vision Inc. She wrote her initials after statement 9: "I understand if I

1 am prompted to provide a specimen, I will need to provide a specimen by 9:00 p.m. or the close  
2 of the collection site, whichever is earliest, on the day I am selected to test.”

3 25. On November 20, 2006, December 27, 2006, January 2, 2007 and March  
4 10, 2007, Respondent was selected to provide a specimen for testing and analysis. However, she  
5 did not provide a specimen until the following day with the exception of January 2, 2007 when  
6 she did not provide a specimen at all.

7 THIRD CAUSE FOR REVOCATION OF PROBATION

8 (Failure to abstain from alcohol)

9 26. Paragraphs 16 through 25 are incorporated herein.

10 27. Respondent’s probation is subject to revocation because she has failed to  
11 comply with Condition 3 of the Order in Case No. R- 2023, which states that she “shall  
12 completely abstain from the possession or use of alcohol...”

13 28. On March 11, 2007, respondent provided a specimen for testing and  
14 analysis. The specimen tested positive for ethylglucuronide (ETG), a metabolite of alcohol.  
15 On March 21, 2007, respondent provided a specimen for testing and analysis. The specimen  
16 tested positive for ethylglucuronide (ETG), a metabolite of alcohol.

17 FOURTH CAUSE FOR REVOCATION OF PROBATION

18 (Obey all laws)

19 29. Paragraphs 16 through 28 are incorporated herein.

20 30. Respondent’s probation is subject to revocation because she has failed to  
21 comply with Condition 8 of the Order in Case No. R- 2023, which states that “Respondent shall  
22 notify the Board in writing within 14 days of any incident resulting in her arrest...”

23 31. Respondent was arrested on July 27, 2006 for violating Penal Code section  
24 273(a), child cruelty and Penal Code section 422, threats. She did not inform the Board of this  
25 arrest within fourteen days. On April 2, 2007, respondent was arrested for violating Penal Code  
26 section 368(b), harm/death: elderly dependent adult. She did not inform the Board of this arrest  
27 within fourteen days.

28 FIFTH CAUSE FOR REVOCATION OF PROBATION

(Probation monitoring program)

32. Paragraphs 16 through 31 are incorporated herein.

33. Respondent's probation is subject to revocation because she has failed to comply with Condition 10 of the Order in Case No. R- 2023, which states that "Respondent shall comply with requirements of the Board appointed probation monitoring program..."

34. Respondent is in violation of Condition 10 because she failed to phone in to Compass Vision Inc., the Board's automated biological fluid testing telephone number, to determine if she was selected to provide a specimen for testing and analysis, on the following dates: September 2, 8, 22, 2006; October 7, 21, 26, 28, 2006; November 2, 5, 7, 9, 11, 16-18, 25, 27, 2006; December 1, 4, 8, 10, 13, 25, 28 - 31, 2006; January 2, 14, 17, 21 - 23, 26, 28, 2007; February 6, 9, 25, 2007; March 22, 31, 2007, April 3-5, 7-8 through June 8, 2007.

#### SIXTH CAUSE FOR REVOCATION OF PROBATION

(Probation costs)

35. Paragraphs 16 through 34 are incorporated herein.

36. Respondent's probation is subject to revocation because she has failed to comply with Condition 11 of the Order in Case No. R- 2023, which states that "All costs incurred for probation monitoring during the entire probation period shall be paid by the respondent."

37. Respondent is in violation of this condition because she has failed to pay monthly costs from August 17, 2006 through May 17, 2007 and is past due \$1,000.00.

#### SEVENTH CAUSE FOR REVOCATION OF PROBATION

(Cost recovery)

38. Paragraphs 16 through 37 are incorporated herein.

39. Respondent's probation is subject to revocation because she has failed to comply with Condition 15 of the Order in Case No. R- 2023, which states that "Respondent shall pay to the Board a sum not to exceed the costs of the investigation and prosecution of this case. That sum shall be \$4,671.50 and shall be paid in full directly to the Board in equal quarterly payments, within 36 months from the effective date of this decision.



1                   40.     Respondent has failed to make quarterly payments and is in arrears in the  
2 amount of \$1,167.87.

3   PRAYER

4                   WHEREFORE, Complainant requests that a hearing be held on the matters herein  
5 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

6                   1.     Revoking Respiratory Care Practitioner License Number 1296, issued to  
7 Michelle Rohdecroust;

8                   2.     Revoking the probation that was granted by the Respiratory Care Board of  
9 California in Case No. R-2023;

10                  3.     Ordering Michelle Rohdecroust to pay the Respiratory Care Board the costs  
11 of the investigation and enforcement of this case, and if placed on probation, the costs of  
12 probation monitoring;

13                  4.     Taking such other and further action as deemed necessary and proper.

14  
15 DATED: June 12, 2007

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18   Original signed by Christine Molina for:  
19   STEPHANIE NUNEZ  
20   Executive Officer  
21   Respiratory Care Board of California  
22   Department of Consumer Affairs  
23   State of California  
24   Complainant  
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